

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHER DISTRICT OF CALIFORNIA

FILED
OCT 21 2024

CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

Katz-Lacabe et al,

v.

Oracle America, Inc.

NO. 3:22-cv-04792-RS

OBJECTION TO PROPOSED SETTLEMENT

I believe I am a Settlement Class Member in this suit for the following reasons:

1. I was either, at one time or another, a California resident or a Florida resident during the time period described in this action.
2. I have used many of the software products Oracle has targeted and exploited with the JavaScript based software, products, arrangements, and actions described in this complaint.
3. Trusted news organizations like AP News (and many others) are reporting on this suit because it has national significance, and have advised members of the public like me that we are likely members of this class action 'if we browsed the web, used geolocation services, or made in-store purchases electronically during the six-year period addressed in the settlement.'
4. The court should presume any party residing in America during the time period described in the complaint is a victim of this activity unless Oracle can prove otherwise:
 - a. The broad reach of activity described in this complaint can only be described as mass surveillance. By it's nature, it's covert and hard to confirm.
 - b. The broad reach of surveillance activity described in this complaint is extensively unethical, criminal, and dangerous from a national security perspective.
 - c. The massive size of this surveillance operation has provided significant financial benefit for defendant and other parties.
 - d. Compared to the size of the potential class, at least 220 million people, and the significant nature of these violations, the amount of time counsel has spent notifying potential class members is insignificant and is clearly malpractice to any reasonable person.

I would like to appear at this hearing, preferably by telephone, or alternately by zoom or other e-conference means. I do not have counsel, I am self represented. I find this settlement concerning and object to the settlement for the following reasons:

The Common Objection

I have read the other objections to this suit, they come from everything from every day normal people to doctors, attorneys, and security researchers. They point out financial problems, legal problems, and problems of national security. The objections submitted by each of these parties are overwhelming fair and rational, but above all, else, they are also common sense. While each objection contributes material reason to reject this settlement, they all share one loud complaint: the financial terms of this settlement proposal are absurd.

As every objector points out, and any person of reasonable mental ability can see, the potential settlement offer is far too low. Estimates for the potential payout of this settlement range from a mere 33 cents per person, to a pittance of \$15 per person. The violations described in this complaint are extensive and egregious, there is simply no way this is a fair settlement for any violation at all, let alone a massive one like this. The following image is from DoorDash, a major fast food delivery service. To add a slice of American Cheese to a hamburger, it costs \$1.19. The proposed settlement, if all class members stayed opted in to such a ridiculous settlement, wouldn't even cover the cost of a slice of cheese on a fast food burger. With inflation the way it has been, a settlement like this probably wouldn't cover an extra shred of lettuce by the time this suit settles. The judiciary might as well slap us in the face with a slice of American Cheese if it thinks this little of our time, security, and privacy.

☐ Extra American Cheese

☐ 50 cal

☐ +\$1.19

☐ Extra Salt

☐ Add 2 Half Strips Bacon

☐ 70 cal

☐ +\$2.99

☐ Add Shredded Lettuce

☐ 0 cal

☐ +\$0.29


1



Add to cart - \$2.49

I have become an experienced pro se litigant in the last three to four years. Many attorneys have and will cast aspersions on my motives, but I have been a regular actor in the courts for one reason only: I want my legal civil rights, and the legal civil rights of my fellow citizens, to be real. I do not believe the civil rights of average people are real under the current guardianship of the legal community. It costs \$500 per hour to hire an attorney to fight an average case, normal people simply cannot afford this cost, and the courts do not take our complaints seriously unless we have individualized legal representation. This is no exaggeration. Leiff Cabraser Heimann & Bernstein, LLP, for example, are charging more than \$500 per hour just for their office staff. Their partners bill over \$1,000 per hour. Normal people simply cannot afford real adequate legal representation. This lack of representation in the courts is having incredibly deleterious effects on all our institutions. There is no accountability for large organizations because there is no way for normal people to hold them accountable in these courts, and so corporate abuse is growing more common for us normal people every day. We cannot afford to pay the justice system 'fee' to stop them, and so the courts dismiss or waive our concerns for convenience.

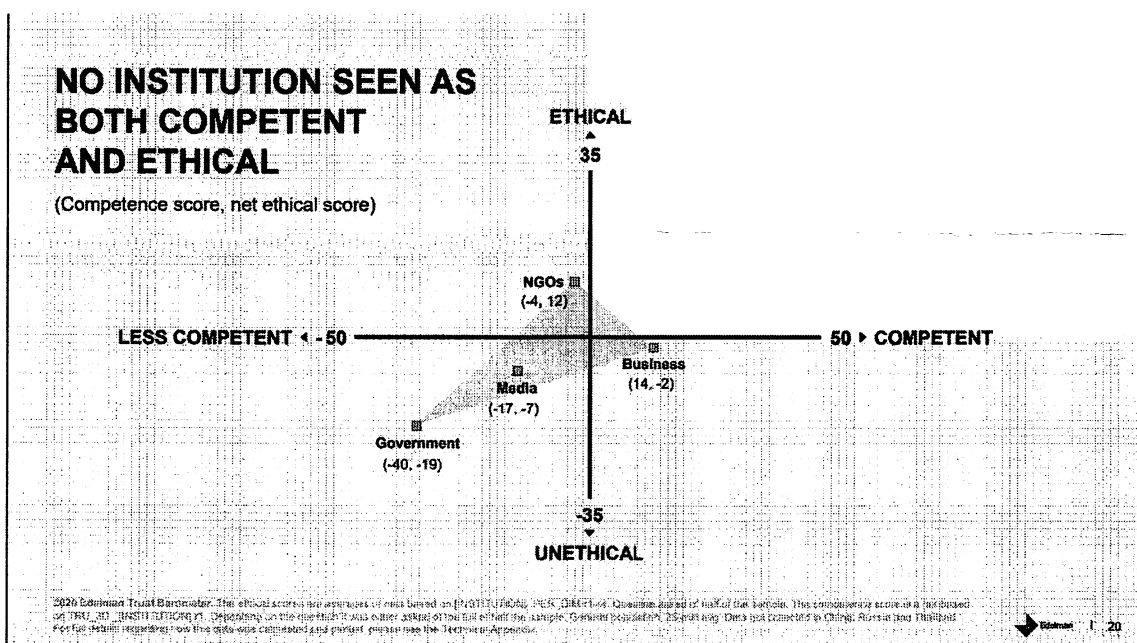
This case is a perfect example of the problem I'm describing with both large corporations engaging in malfeasance, misfeasance, and nonfeasance, and the courts condoning it 'for convenience.' The kind of mass surveillance Oracle and its partners have engaged in is unprecedented and dangerous. We know it's bad, but we don't know the extent of the damage or who else is involved and getting a free waiver. The damages offered are essentially nothing in exchange for the waiver of the entire country's

right to litigate this matter. It looks like the court will approve this settlement. This whole situation is unethical and impossible to approve of for a reasonable person. Worst of all, it seems like this is a typical day in court.

Trust in the Judicial System

While I do not think the justice system will consider the gross injustice done to American citizens by this proposed settlement offer, I think it should at least consider the damage done to its own reputation when it condones this kind of corporate abuse. Trust in government, overwhelmingly, not just for me, is at an all time low, and this court should seek to regain some of that trust, not lose more of it. The following graphics and charts are from the 2020 and 2024 Edelman Trust Barometer, a respected international organization that has been tracking trust in our institutions for over 20 years. Many of the following graphics are international, from many countries, but an individual look at the reports for each country show America is in the worst performing brackets for most of these measures. The court should consider public sentiment like this before it waives the rights of a nation full of people for 33 cents per person, *on the mere authority of the Federal Rules of Civil Procedure*, because trust in all our institutions, including the judiciary, depends on rulings like these.

As of the 2020 report, no institution at all was seen as 'ethical and competent,' including government, which scored the lowest scores in both ethics and competence:

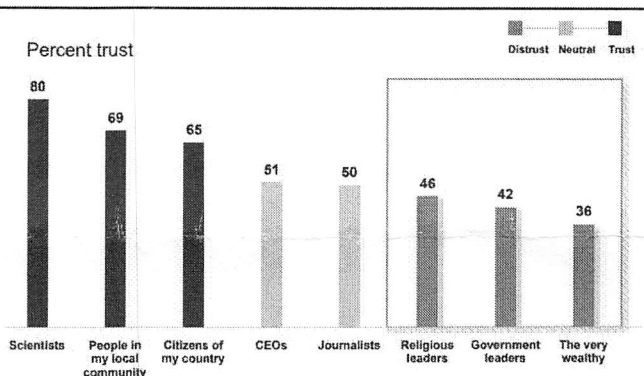


The only demographic people trust less than government to address social problems is “The Very Wealthy,” and approval of the very wealthy is incredibly low...

SOCIETAL LEADERS NOT TRUSTED TO ADDRESS CHALLENGES

“I do not have confidence that our current leaders will be able to successfully address our country's challenges”

66%



2020 Edelman Trust Barometer. POP. MEX. Below is a list of statements. For each one, please rate how true you believe that statement is. 5-point scale, top 4 how true, 100% = 100%.

I don't know how to say this politely to the judiciary, I of course don't want to prejudice this court against my objection, but normal people are simply out of trust for everybody but their peers, because we view all major institutions as corrupt. Only the judiciary can solve this problem.

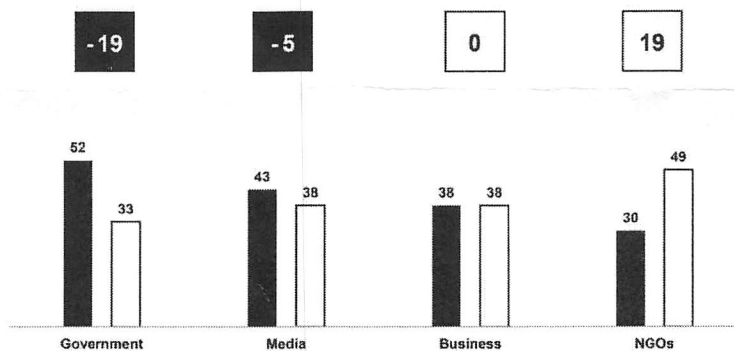
INSTITUTIONS SEEN AS LACKING HONESTY

Percent who cite each as a reason they trust or distrust each institution

This institution...

- Is purpose-driven
- Is honest**
- Has vision
- Is fair

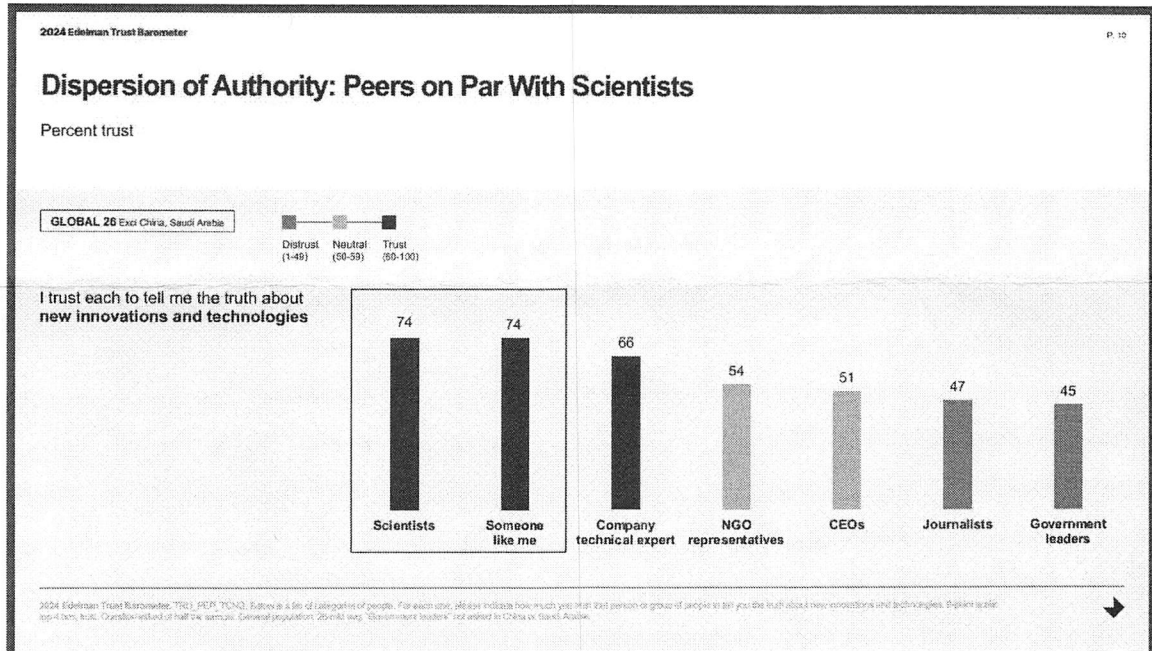
Corrupt and biased
Honest and fair



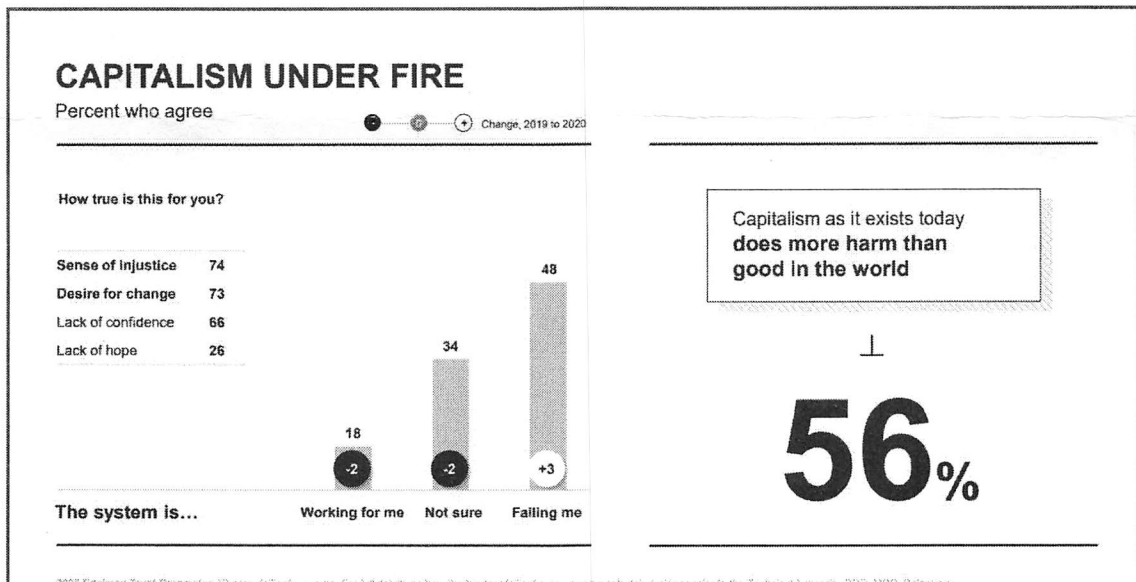
2020 Edelman Trust Barometer. Not correct response: positive responses minus negative responses to the following questions: [INSTITUTION] PER_1164. In thinking about why you do or do not trust (distrust), please specify where you think they fall on the scale between the two opposing descriptions. 5-point scale; top 5 box, positive; bottom 5 box, negative. Question asked of half of the sample. General population. 25 min avg. Data not collected in China, Russia and Thailand.

Edelman | 52

The following graphic shows average people now trust no demographic more than their peers, not experts, not CEOs, not journalists, and especially not government leaders. Scientists should be more reliable than peers, their score is not impressive either in context. Until these other groups catch up, the courts should rely on civil juries to guide them.



These trends are simply not sustainable. Unless the courts and other institutions are working to effectuate the fall of Capitalism, the courts need to address mass corporate abuse in a responsible effective manner, starting right away. People overwhelmingly feel like Capitalism is failing them:



Other Concerns

I have other concerns I ask this court to address at the hearing. Like one of the other objectors has requested, I officially request a copy of any “digital dossier” Oracle has compiled on me, including medical records. Further, I would like a complete list of all potential employers my ‘dossier’ may have been sent to. To close this case before I and other members of the public can see the extent of these dossiers would be a gross miscarriage of justice. Nobody can determine the extent of damages without seeing these dossiers.

Leiff Cabraser Heimann & Bernstein, LLP and Morrison Foerster are clearly in collusion to profit off this case personally, at the expense of plaintiff class, the entire nation, and are acting in bad faith. For starters, at this very moment, both firms still employ ‘privacy’ policies that are blanket waivers for them to participate in exactly the kind of activity at subject in the complaint:

https://angeion-public.s3.amazonaws.com/docs/Privacy_Policy.pdf (The privacy policy from the settlement agreement website provided by Leiff Cabraser Heimann & Bernstein, LLP)

<https://www.mofo.com/about/privacy-policy> (Morrison Foerster website)

Second, the only parties benefitting from this settlement are Leiff Cabraser Heimann & Bernstein, LLP, Morrison Foerster, and their client Oracle. Class members receive no real benefit from this settlement. Aside from the lack of financial compensation, there is no deterrent to future violators when the gains easily outweigh the costs of legal actions like this. There is no way the \$1,000 an hour partners at Leiff Cabraser Heimann & Bernstein, LLP are this bad at math, they know they are ripping off everyone in the settlement class.

It was unclear to me on research if I have a legal right to object to this settlement (since I have been included without my consent), and then to exclude myself afterwards. The Federal Rules of Civil Procedure do not indicate that I cannot object and then exclude myself. The only reference to this I have found is in the proposed settlement agreement this court has approved, drafted by counsel I did not choose, Leiff Cabraser Heimann & Bernstein, LLP.

6. EXCLUSIONS

- 6.1 Requests for exclusion.** The Notice will advise all members of the Settlement Class of their right to exclude themselves from the Settlement. The Settlement will not bind any individuals who timely exclude themselves from the Settlement. Settlement Class Members may not seek to both exclude themselves from the Class and submit an objection to this Agreement. Any Settlement Class Member who both objects to this Agreement and submits a timely and valid request for exclusion will be deemed to have opted out and the objection shall be deemed null and void.

This court should not waive any rights on my behalf nor should it allow the shady attorneys at Leiff Cabraser Heimann & Bernstein, LLP to waive any rights on my behalf. While I understand I would not be able to file any further objections or actions in this case after exclusion, this court should allow an objection while I am indicated as a class member, and then allow me to exclude myself from the class. This court should not ignore any objection from any individual drafted into a settlement class without consent. I will not be holding up this settlement because I intend to exclude myself immediately after filing this objection, but please do not deny my right to make a statement on the public record now that I have been drafted into this case without consent.

Nuisance Value

To get a fair idea of what a fair settlement amount **should** look like, the courts should consider Nuisance Value. The actions described in this complaint are serious and probably criminal in nature. Many laws exist to prevent these actions, and the defendant and associated parties are very well resourced, they could easily have afforded themselves the legal advice to avoid illegal activity of this nature and at this scale. They *chose* to expose themselves to potential legal action from every person in this country, nobody made them do it. When companies ignore complaints from the public, and collections of federal and state laws to abuse consumers in mass, *when the only avenue they leave for relief is the courts*, the courts should never grant less than nuisance value to each individual victim of this kind of abuse. Nothing else will encourage citizens' faith in the courts again. It is because the courts are allowing large corporate actors to escape justice regularly, *without even paying nuisance value*, that abuse of this scale can now exist. The following article from www.abovethelaw.com describes nuisance value as the minimum amount of money a defendant will pay to fight a case. There is no reason a

defendant should be released from liability, especially mass liability, for less than \$5,000 per person:

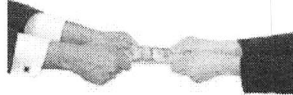
SMALL LAW FIRMS

Advising A Client To Settle For Nuisance Value Can Be Tricky

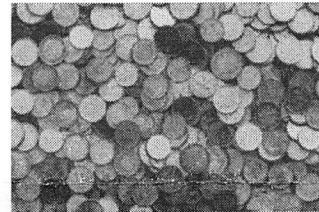
Clients may not wish to settle for nuisance value because they may have an inflated sense for how good their case is.

By JORDAN ROTHMAN on April 13, 2022 at 4:03 PM

As most litigators already know from their experience in practice, "nuisance value" is the amount of money a defendant will pay defending a lawsuit and which they may fork over to a plaintiff to make a matter go away. The circumstances of the case, and the strength of claims and defenses, will determine how much money nuisance value is, but this is usually (but not always) anywhere between \$5,000 and \$50,000. Sometimes, it just makes sense for defendants to offer nuisance value as a business decision so that they can conclude a case with finality rather than spend a similar sum on litigation and possibly lose. However, it can be tricky sometimes to propose settling for nuisance value, and this subject needs to be handled carefully with clients.



Recommended



What Forms Of Payment Should Your Firm Accept?



<https://abovethelaw.com/2022/04/advising-a-client-to-settle-for-nuisance-value-can-be-tricky/>

This of course would present problems for Oracle, which has engaged in the mass surveillance of at least 220 million people. In a fair, rational world, , where corporations were actually financially accountable for wrongdoing, **Oracle would be looking at potential damages of at least (calculating for nuisance value of just \$5,000) \$1,100,000,000,000.** That's one trillion one hundred billion dollars. Oracle would be clearly be in bankruptcy. In a reasonable world, Oracle would presumably be dissolved by the federal government and their assets entirely distributed to the proposed settlement class, all Americans.

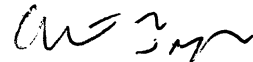
Larry Ellison, and Oracle, combined, are worth around \$700,000,000,000. That's seven hundred billion dollars. If the courts actually held Larry Ellison and Oracle responsible for these illegal acts, the class members could at least be reasonably compensated. Dividing seven hundred billion dollars among the proposed 220 million class members, each class member would at least be reimbursed with \$3,181.81 per person. This would be much more fair. It still wouldn't cover even the lower end of nuisance value for the gigantic legal mess Larry Ellison and Oracle chose to engage in here, but it would restore a lot of faith in the legal system. When we look at this math, it's also unclear why Leiff Cabraser

Heimann & Bernstein, LLP would take such a pittance of a settlement instead unless they actually work for Larry Ellison and Oracle. There's a lot more money on the table here for defendants that Leiff Cabraser Heimann & Bernstein, LLP are knowingly leaving behind.

No person of sound mind can approve this settlement agreement. The math on the compensation is outrageous. This court might as well hand Larry Ellison a 'diplomatic immunity' card like the one from the movie, Lethal Weapon 2. The villain in Lethal Weapon 2 did not commit nearly as much illegal behavior as Larry Ellison has here, and swiftly had his diplomatic immunity revoked.

For these reasons, not inclusive, I, Anthony Trupia, oppose this settlement agreement. I also wish to exclude myself from the class immediately afterwards, and I wish to attend the hearing if possible. I do not wish to waive any rights, including my right to object while I'm a class member and exclude myself from this suit after my objection. To the Clerk or administrator for this action: please file my objection. Thank you.

Respectfully submitted,



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Pro Se

Date: October, 15th, 2024